Supreme Court, U.S.
FILED
FEB 13 1990
JOSEPH F. SPANIOL, JR.
CLERK

No. 89-903

In The
Supreme Court of the United States

October Term 1989

Vernon C. Davis and
Elmira S. Davis

Petitioners.

-V.-

Thomas Farasy, President
Perpetual Real Estate Services, Inc.
Thomas P. Smith, Esq. of
O'Malley, Miles and Harrell

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF MARYLAND

REPLY BRIEF OF PETITIONERS TO THE OPPOSITION SUBMITTED BY RESPONDENTS

Vernon C. Davis and
Elmira S. Davis
11702 Piscataway Road
Clinton, Maryland 20735
(301) 292-4780

PRO SE

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES ii

PREFACE ..... 2 - 4

CONCLUSION 5

TABLE OF AUTHORITIES

CASES Page

Betts v. Brady, 465, 316 U.S.455 (1942)..... 1, 2, 3

U.S.C. 28 sec. 1257(3)..... 2, 3

Radio Station WOW v. Johnson, 326 U.S. 120, 124 ..... 2, 3

State Roads Commission v. Smith, 224 Md. 537, 168 A.2d 705, (1961)..... 4

PREFACE

Petitioners, Vernon C. and Elmira S. Davis filed, a Petition For A Writ of Certiorari, Respondents filed Respondents Brief in Opposition. Counsel for Respondents raised questions as to Whether the petition has been timely filed and whether the decision below involved any federal question.

Respondents site in a very unprofessional manner Betts v. Brady, to this Honorable Court. There is nothing in Betts that suggest timeliness or lack of federal question. However, Betts does note "Though, as we have noted, the Amendment lays down no rule for the conduct of the States, the question recurs whether the constraint laid by the Amendment upon the national courts expresses a rule so fundamental and essential to a fair trial and so, to due process of law, that it is made obligatory upon the States by the Fourteenth Amendment." at pg. 465, 316 U.S. 455 (1942)

Denying the due process clause of the Fourteenth Amendment of the United States Constitution and leaving a lien without notice on real property invokes jurisdiction under U.S.C. 28 sec. 1257(3). "....where any title, right, privilege or immunity is specially set up or claimed under the Constitution...,"

> "The provision of subsection 1257 that only "Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court ... has been carried in almost identical language since the Judiciary Act of 1789, 1 Stat. 85, subsection 25.

> This requirement is not one of those technicalities to be easily scorned. It is an important factor in the smooth working of our federal system."

Radio Station WOW v. Johnson, 326 U.S. 120, 124.

Respondents Brief In Opposition, Appendix, pg. 6, states, "on February 16, 1989, Defendants Motion To Dismiss In Banc Appeal, granted." The procedural process by respondents is incorrect, whereas, in "State Roads Commission v. Smith, Constitutional Law - Md. Const.,Art. 4, Sec. 22, 224 Md. 537, 168 A.2d. 705, (1961)

> "In Providing For Decisions In Banc, Does Not Bar Right of Appeal, if Motion To Reserve Points Is Filed But is Abandoned Before Decision Is Made. The

Initiation of proceedings under Md. Const., Art. 4, sec. 22, for review by a court in banc, not carried through to hearing and determination but dismissed, without prejudice, by order of the court, does not bar an appeal to the Court of Appeals."

CONCLUSION

Petitioner, in this instance, ask this Honorable Court for due process of law guaranteed by the Fourteenth amendment of the United States Constitution on all claims made under the complaint made in the Circuit Court for Prince Georges County, Maryland, case no. CAL 87-20139.

Respectfully submitted,

Elmira S. Davis

11702 Piscataway Rd.

Clinton, Maryland 20735